

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:	)	
	)	
JASPER C.,	)	OAH Case Nos. L 2003100068
	)	L 2003100069
Claimant,	)	L 2003100070
	)	
and	)	
	)	
NORTH LOS ANGELES COUNTY	)	
REGIONAL CENTER,	)	
	)	
Service Agency.	)	
_____	)	

In the Matter of:	)	
	)	
JOHN C.,	)	OAH Case Nos. L 2003100071
	)	L 2003100072
Claimant,	)	
	)	
and	)	
	)	
NORTH LOS ANGELES COUNTY	)	
REGIONAL CENTER,	)	
	)	
Service Agency.	)	
_____	)	

In the Matter of:	)	
	)	
KYRA C.,	)	OAH Case Nos. L 2003100073
	)	L 2003100074
Claimant,	)	
	)	
and	)	
	)	
NORTH LOS ANGELES COUNTY	)	
REGIONAL CENTER,	)	
	)	
Service Agency.	)	

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)

**DECISION**

These consolidated matters came for hearing before Samuel D. Reyes, Administrative Law Judge, Office of Administrative Hearings, on March 10, 2004, in Lancaster, California.

Ruth and Pleze C., Claimants' adoptive parents represented Claimants.

Ruth C. Gordean, Contract Administrator, represented Service Agency.

Oral and documentary evidence was received at the hearing and the matter was submitted for decision.

**ISSUE**

Whether Service Agency should fund day care services provided by Quality Care Providers Program ("Quality Care"); specifically, Claimants seek funding for 8 hours on Saturdays and on days school is not in session for each Claimant, 4 hours after school for Jasper C., and 6 hours after school for John C. and Kyra C.

**FACTUAL FINDINGS**

1. Claimants are the adoptive children of Ruth and Pleze C. The adoptive parents are retired and stay at home.

2. Claimant Jasper C. is a Service Agency consumer, who was born on July 14, 1994, has a diagnosis of autism. He is primarily non-verbal and communicates with the few words he is able to say and through other sounds and gestures. He is not toilet-trained and requires assistance with daily living tasks. He regularly engages in tantrums, self-injurious behavior, and property-destructive behavior.

3. Claimant John C., born on November 21, 1990, is a consumer of Service Agency with a diagnosis of mental retardation. He is able to verbally communicate his needs and to perform most daily living tasks, albeit with prompting in some instances. He helps with household chores. Although improving, he continues to regularly engage in behaviors that require constant supervision, such as temper tantrums and resistive behavior.

4. Claimant Kyra C., a Service Agency consumer with a diagnosis of mental retardation, was born on July 14, 1993. She is able to verbally communicate her needs, but requires some assistance with toileting, bathing, and dressing. She regularly engages in resistive behavior, temper tantrums, and self-injurious behavior. She is overly-friendly with everyone, including strangers.

5. Quality Care provides day care to developmentally disabled children. As part of the service, Quality Care provides structured activities, which help Claimants stay on task and away from inappropriate behavior. The Quality Care services are included in the Individual Program Plan (“IPP”) for Claimant Jasper C., but the disagreement regarding the program’s funding is also set forth in the document. Quality Care is an appropriate service to meet each Claimant’s developmental needs.

6. Claimants presently participate in Quality Care’s after school day care program. Claimant Jasper C. attends 4.5 hours after school, Monday through Friday, and 8 hours on Saturdays. Claimants John C. and Kyra C. attend the program 8 hours on Saturdays. Service Agency is temporarily funding the service for Claimant Jasper C.

7. a. Claimants’ adoptive parents receive funds from the Adoption Assistance Program (“AAP”) for each Claimant. The AAP was created to provide a financial incentive for prospective parents to adopt children in foster care, most of whom have special needs that present barriers to adoption.<sup>1</sup>

b. The AAP is administered by the Los Angeles County Department of Children and Family Services. Barry Ginsberg (“Ginsberg”), Assistant Regional Manager, testified about the program and its purpose. He testified the funding is intended to meet the special needs of adopted children, not those of their adoptive parents. In Claimants’ cases, the basic room-and-board \$500 stipend has been increased to the maximum allowable rate because of their special behavioral and medical needs. Ginsberg testified expenditure of AAP funds to meet special day care needs of adopted children is within the intended use of the funds.

8. Claimants’ adoptive parents receive AAP funds in the amount of \$4,258 per month for Jasper C., \$4,234 per month for John C., and \$4,234 for Kyra C.

9. Claimants’ adoptive parents spend, or in the case of Jasper C. will spend, \$1,271.08, 437.20, and 437.20 on day care expenses at the Quality Care program for Claimants Jasper, John, and Kyra C., respectively –the rate for Jasper C. is \$7 per hour and that for John and Kyra C. is \$5 per hour for each. They also spend \$131, 500.50, and 500.50 on entertainment for Claimants Jasper, John, and Kyra C., respectively. Thus, excluding room and board, Claimants’ adoptive parents spend \$1,402.08 out of the available \$3,758 supplemental funding to meet Claimant Jasper C.’s care and supervision needs, leaving a \$2,355.92 residual; they spend \$937.70 out of the available \$3,734 for each of Claimants John and Kyra C., leaving a balance of \$2,796.30 for each child. Claimants’ adoptive parents, therefore, have sufficient

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<sup>1</sup>Welfare and Institutions Code section 16120; Title 22, California Code of Regulations (“CCR”), section 35333. All further statutory references are to the Welfare and Institutions Code.

AAP funds to meet the day care needs of Claimants.

10. Ruth C. testified Quality Care provides a valuable program with needed structure. She further testified parental health needs and personal pursuits, challenges presented by Claimants, and other tasks involved in advocacy for Claimants prevented them from personally providing all the necessary day care. She did not dispute there are sufficient AAP funds to pay for the day care, but argued AAP cannot be considered a generic resource for day care expenses.

### LEGAL CONCLUSIONS

1. In enacting the Lanterman Act, Welfare and Institutions Code<sup>2</sup>section 4500 et seq., the Legislature accepted its responsibility to provide for the needs of developmentally disabled individuals and recognized that services and supports should be established to meet the needs and choices of each person with developmental disabilities. Section 4501.

2. The Lanterman Act gives regional centers, such as Service Agency, a critical role in the coordination and delivery of services and supports for persons with disabilities. Section 4620 et seq. Thus, regional centers are responsible for developing and implementing individual program plans, for taking into account consumer needs and preferences, and for ensuring service cost-effectiveness. Sections 4512, 4646, 4646.5, 4647, and 4648.

3. Section 4648(a) directs regional centers, such as Service Agency, to secure needed services and supports to achieve the stated objectives in individual program plans. Subsection 4648(a)(8), however, contains the following limitation: “Regional center funds shall not be used to supplant the budget of any agency which has the legal responsibility to serve all members of the general public and is receiving public funds for providing those services.”

In this case, the County of Los Angeles receives public funds, AAP funds, to provide adoption assistance to members of the public adopting hard-to-place children. The funds are intended to meet the care and supervision needs of adopted children. In the case of Claimants, they each receive supplemental funds to meet their special needs, which include the behavior needs Quality Care services address. The funds have not been exhausted in meeting Claimants’ care and supervision needs; in fact, significant sums remain available to meet their day care needs. Accordingly, Claimants’ adoptive parents are seeking Service Agency funds to pay for services that another agency has an obligation to pay. Moreover, the other agency, the County of Los Angeles, has in fact accepted its responsibility to pay and the funds exceed the demonstrated need. Section 4648(a)(8) therefore prohibits the use of Service Agency funds to pay for the Quality Care services, as such use would supplant the budget of the agency with the legal responsibility to provide the service.

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<sup>2</sup> All further references are to the Welfare and Institutions Code.

4. Claimants have presented Decisions by administrative law judges of the Office of Administrative Hearings, including one by the Administrative Law Judge, to argue that AAP funds cannot be considered a generic funding source under section 4648(a). While none of the cases cited constitute controlling authority, they are nevertheless distinguishable. All the cases, involving Claimants Jareth and Candace S. (submitted for decision March 17, 2000; Reyes, ALJ), Rebecca K. (submitted August 17, 2000; Thompkin, ALJ), Breanna W. (submitted February 20, 2001), L.H. (submitted November 8, 2002; Roman, ALJ), and T.S., C.S., and J.S. (submitted June 16, 2003; Magnuson, ALJ) pertain to the issue of respite care, a service which, as the court in Clemente v. Amundson, 60 Cal.App.4<sup>th</sup> 1094 (1998), noted, is qualitatively different from day care, as it is primarily intended to meet parental needs; the issue in this case, on the other hand, involves Claimants' special need for structured day care services. Each of the cited cases concluded that the regional centers involved, including Service Agency in the Jareth and Candace S. matter, may not consider AAP funds in determining the level of respite care funding, an issue not before the Administrative Law Judge in this case. More importantly, none of the cited cases involved the issue in this case, namely, the applicability of section 4648(a)(8) in the context of funding day care services required to meet a special care and supervision needs of the adopted child. Accordingly, the cases cited by Claimants' parents do not support their arguments for use of Service Agency funds to pay for the Quality Care services.

5. For the foregoing reasons, Service Agency need not fund the services provided by Quality Care.

#### ORDER

Claimants' appeals are rejected and the request for Service Agency to fund the day care services offered by Quality Care is denied.

Dated: \_\_\_\_\_

Samuel D. Reyes  
Administrative Law Judge  
Office of Administrative Hearings

#### NOTICE

This is the final administrative decision in this matter and both parties are bound

by this Decision. Either party may appeal this Decision to a court of competent jurisdiction within 90 days.